

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 14

ROYAL GATE DODGE, INC.

Employer<sup>1</sup>

and

Case 14-RC-12420

INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE  
WORKERS, AFL-CIO

Petitioner

**REGIONAL DIRECTOR'S DECISION AND**  
**DIRECTION OF ELECTION**

The Employer, Royal Gate Dodge, Inc., is engaged in the retail sale of automobiles, trucks, and related services at its dealership located in Ellisville, Missouri. The Petitioner, International Association of Machinists and Aerospace Workers, AFL-CIO, filed a petition and amended petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit of all full-time and regular part-time Service Department journeymen and apprentice automotive technicians,<sup>2</sup> employed by the Employer at its Ellisville, Missouri facility, specifically excluding all other service department classifications. A hearing officer of the Board held a hearing and the parties filed briefs.

The Petitioner contends that the 22 Automotive Technicians constitute a craft unit and, thus, may be represented in a separate unit for collective bargaining.

As modified in its brief, the Employer contends that the only appropriate unit

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<sup>1</sup> The Employer's name appears as amended at hearing.

<sup>2</sup> Employer's Exhibit 1 refers to automotive technicians and service technicians. The classifications are interchangeable.

includes the 22 Automotive Technicians, Service Advisors, 7 Body Shop Technicians, and 3 Pre-Delivery Inspection (PDI)/Used Car Technicians. There is no history of collective bargaining for any of these employees.

I have considered the evidence and the arguments presented by the parties on the issue. As discussed below, I have concluded that the automotive technicians are a distinct and homogeneous group of highly trained and skilled craftsmen constituting an appropriate separate craft bargaining unit. Accordingly, I have directed an election in a unit that consists of approximately 22 employees.

### **I. OVERVIEW OF OPERATIONS**

The Employer operates a Dodge brand automotive dealership selling new and used automobiles including trucks and motorcycles, automobile leasing and service department to include collision repair, mechanical services, lube services and retail sale of automotive parts. In these operations, the Employer employs approximately 120 sales, service, and office employees.

The overall operations of the Employer are the responsibility of its president. Reporting directly to the president is the general manager. Reporting to the general manager are several department directors. The service director oversees all areas of service including Pre-owned Prep Department, the Collision Center, the Service Area<sup>3</sup> and the Parts Department. Reporting to the service director are four managers; Pre-Owned Prep Manager, Collision Center Manager, Service Manager and the Parts Manager.<sup>4</sup> The four Service Department managers have the authority to hire employees for their respective departments. All other supervisory functions such as discipline,

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<sup>3</sup> The area within the full Service Department that performs mechanical repairs and maintenance is also referred to as the Service Department. For ease of reading, that area will be referred to as the Service Area.

<sup>4</sup> The parties stipulated that the four Service Department managers are supervisors within the meaning of Section 2(11) of the Act. The parties also stipulated that Used Car Sales Manager Kelly is also a supervisor within the meaning of Section 2(11) of the Act.

terminations, and handling of employees' complaints are also performed by the service department managers but in conjunction with the Service Director. The Service Director sets wage rates and talks directly with employees to resolve employee complaints. The final resolution for all discipline, terminations, and complaints is the decision of the Service Director.

The Employer's facility is comprised of three main buildings, the sales showroom building which fronts onto Manchester Road and houses two showrooms, the accounting office, several smaller offices, the new car prep area and the Get Ready Shop. The latter two areas comprise the Pre-Owned Prep Department. To the west of the showroom building is the motorcycle sales facility. Behind the Sales Showroom facility is the Service Department building which houses, in order of location from front to rear, the Collision Center, men's and women's changing and restrooms, the lunchroom and the Lube Bay Area, the customer lounge, the Parts Department, the Service Write-up Area and the Service Area. Service Department employees can gain access to their respective departments from outside through separate exit doors in each area. However, the majority of employees enter the Service Department building from one entrance near the changing and restrooms which is where the time clock is located. This entrance is also near the Service Department employee parking area. The Collision Center, Lube Area, Parts Department, Service write-up, and Service Area all have overhead door entrances as well<sup>5</sup>.

All Service Department employees are provided with the Employer's Information Handbook and are subject to its provisions. All employees receive the same vacation, sick leave, health and group life insurance options, profit sharing, and 401(k) benefits.

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<sup>5</sup> The parties stipulated that employees in the Parts Department and the Lube Area should be excluded

Service Department employees use the same lunchroom, changing and rest rooms, parking lot, and the same time clock.

## **II. THE SERVICE AREA**

The Service Area manager supervises service advisors and the 22 automotive technicians. Fifteen of the automotive technicians work on the day shift, while seven work on the night shift. The service manager also supervises four Lube Area employees. Currently all 22 automotive technicians have journeymen status. The Employer considers journeymen technicians to have several years of experience in automotive repair and maintenance. The Employer would not hire a Body Shop technician with some mechanical experience to work as a journeymen automotive technician but may hire such an applicant as an apprentice and promote him to journeymen status as experience and training are obtained on the job.

Automotive technicians perform all levels of maintenance and repairs on automobiles brought in by customers as well as in-house work for the Pre-owned Prep Department and the Collision Center. Two-thirds of the work performed is for customers paying directly for the service while one-third of the work performed is warranty service work. Thirty percent of the mechanical work performed is considered specialized such as transmission, internal engine, and engine overhauls and is only performed by automotive technicians. The other 70 percent of mechanical work performed is not as specialized and can be performed by less skilled employees such as the PDI technicians and the Body Shop technicians. No evidence was presented as to the frequency with which mechanical work is performed by PDI technicians or Body Shop technicians. At times, automotive technicians will perform minor bodywork such as trim and front fascia while a vehicle is in the Service Area for mechanical services. On occasion, when the Pre-owned Prep Department is too busy to get the cars prepped for sale and when the automotive technicians are not busy, automotive technicians have performed PDI

checks on new and pre-owned cars. It is the Employer's goal to provide as much work as possible to the automotive technicians to meet their guaranteed 40-hour work week.

Work in the Service Area is assigned by the service advisors based on an analysis of the work to be performed, the availability of the automotive technician, and the number of hours billed by the automotive technicians so that billable hours are fairly distributed. Complex engine overhauls while within the skill level of all the automotive technicians are viewed as best assigned to two particularly experienced technicians.

Automotive technicians are required to supply their own tools. The Employer does not specify the tools to be required but it is assumed that the automotive technician will provide those tools needed for the job. Technicians' personal tools can be valued at as much as \$50,000 to \$60,000. Technicians supply their own hammers, screwdrivers, wrenches, pliers, measuring tools, and multi-meters. The Employer provides many major diagnostic and measuring tools such as a DRB-3, diagnostic computer that analyzes and pinpoints where mechanical problems are occurring. These specialty tools are kept in the Service Area tool room. Technician's personal tools are kept near their work area.

Automotive technicians are required to attend training classes and if possible to obtain certification in various training areas. The Employer provides for paid training courses at the Chrysler Training Center in Earth City, Missouri, as well as opportunities to attend ASE (Automotive Service Excellence) training. The Chrysler Corporation gives dealerships star ratings based on service abilities, which are determined by the amount of certified training programs that automotive technicians attend. Chrysler rates technicians on three levels, bronze, silver, and gold based on the type and amount of training including ASE certification. For a dealership to gain a 5-star rating, the dealership must have a certain number of gold, silver, and bronze rated technicians employed. Automotive technicians are required to post their certifications in the

customer write-up area as well as their state inspection license and personal driver's license. No other employees are required to have or to post their training certificates and licenses.

Service Area work is charged at a \$98.50 flat rate. Each type of repair or maintenance is pre-determined to take a set number of hours to perform as set out in the Chrysler book of service hours. This flat rate is also charged to in-house service work. All but 1 of the 22 automotive technicians' hourly wage rate is \$23.57. Technicians are guaranteed 40 hours per week, however, under the "Technician Sales Plan", employees earn additional hourly pay for hours billed over 40 hours. No other Service Department employee earns this incentive bonus. Automotive technicians typically bill between 30 and 40 hours per week.

Automotive technicians wear dark blue pants and light blue shirts. Automotive technicians attend Service Area meetings with the service manager and the service director. Notices for automotive technician meetings are posted in the changing and restrooms, the lunchroom, near the time clock, and on the door to the service parts counter.

The Service Area is open to the public from 7 a.m. to 11 p.m., Monday through Friday and 8:30 a.m. to 4:30 p.m. on Saturday. Automotive technicians are scheduled to work from 6:30 a.m. to 11:30 p.m. First shift automotive technicians end their day at about 3 p.m., but they may leave early or stay later depending on the workload. The second shift automotive technicians report at about 3 p.m.

### **III. THE PRE-OWNED PREP DEPARTMENT**

The Pre-Owned Prep manager supervises four PDI technicians – one classified as a used car tech, and three classified as PDI. One PDI technician specializes in used cars and one PDI technician specializes in motorcycles. The Pre-Owned Prep area is responsible for preparing new automobiles for sale by removing protective materials and

going through a standard checklist inspection verifying that all systems on the auto are working such as the lights, radio, automatic seats and mirrors, windshield wipers, etc. This preparation inspection takes about 45 minutes to perform. The PDI technicians in this area also perform inspections of used cars that are brought into the Employer through a customer trade-in. The technicians follow a 110-point checklist to verify that the used car is properly working or to discover any malfunctions. This used car inspection takes about ½ to 1 hour to complete. The inspection of the new and used cars by going through the checklists takes minimal automobile knowledge. The Pre-Owned Prep manager assigns the PDI checklist work to the PDI technicians. The PDI technician specializing in motorcycles also performs motorcycle maintenance and repairs. PDI technicians also install additional accessories to new cars and perform state inspections.

If a mechanical repair is necessary for a used car to be sold again by the Employer, the Pre-Owned Prep manager advises the Used Car Sales manager. The Used Car Sales manager makes a decision on whether the used car should be repaired for resale or whether the repair is too costly and the used car is wholesaled. If the used car is to be resold by the Employer, the PDI technicians in this area do the repair depending on the complexity of the repair. Complex repairs that are beyond the skill level of the PDI technicians are sent to the Service Area where automotive technicians do the repair. The Service Area charges the Pre-Owned Prep Department the same hourly rate of \$98.50 that it charges customers. Once advised of the cost, the Pre-Owned Prep Department authorizes the Service Area work. The Pre-Owned Prep manager determines what repairs are beyond the skills of the PDI technicians and need to be assigned to the service area. The record does not reflect the frequency with which the automotive technicians perform repairs on used cars from the Pre-Owned Prep Department. The Employer asserted that when the Service Area automotive technicians

are backlogged, non-complex repairs and maintenance originating in the Service Area is assigned to the PDI technicians. The Employer further asserted that 70 percent of all mechanical work is within the skill levels of the PDI technicians. However, the record did not reflect the amount of mechanical work that was actually performed by employees other than those in the automotive technician classification.

PDI technicians are not required to have mechanical repair or maintenance certifications to maintain employment. PDI technicians are offered opportunities to train at the Chrysler training center but it is not required. On one occasion, an automotive technician was transferred to the Pre-Owned Prep Department because he did not have the required skills to perform as an automotive technician. No other evidence was produced at hearing of an interchange of employees between the Pre-Owned Prep Department and other Service Department areas. The record did not reveal whether PDI technicians supply their own tools.

PDI technicians wear Employer provided dark blue pants and light blue shirts. The PDI technicians' wage rates vary from \$14 to 18.25 per hour. PDI technicians have a guaranteed 40-hour work week. The record does not establish if the billing of PDI work is based on a pre-set industry trade book. The Pre-Owned Prep Department's hours are 7:30 a.m. to 6 p.m., Monday through Friday. If a used or new car needs to be prepped on a Saturday, those cars are brought to the Service Area for prepping.

#### **IV. THE COLLISION CENTER**

The Collision Center manager supervises two Collision Center advisors, also referred to as estimators and seven technicians, referred to here as Body Shop technicians, two painters, one painter apprentice, and one painter's helper. The Collision Center is responsible for the repair of automobile bodies and frames. Ninety percent of the automobiles brought into the Collision Center are repaired as insurance claims. The Collision Center does not do any warranty work.



When an automobile is brought in for body repairs, the Body Shop technicians tear down the vehicle so that it may be inspected and an estimate written for review by the insurance inspectors. The two Collision Center advisors estimate the bodywork needed, write up customer estimates for the customer or the insurance company, and deal with customers about the bodywork and any additional problems found during the repair work. The Body Shop manager assigns work to the Body Shop technicians. In the manager's absence, the Collision Center advisors will assign work to the Body Shop technicians.

When mechanical repairs are discovered while performing bodywork, the Body Shop technicians contact the Service Area manager to come and inspect the mechanical problem. A Service Department service advisor may also come to the Body Shop to review the problem and give an estimate on the repair. The Employer asserted that the Body Shop technicians perform a substantial amount of mechanical work. If the mechanical repair is not too complex, within the Body Shop technician's abilities, and there is sufficient time, the Body Shop technician can do the mechanical repair, such as suspension work and air conditioning. All other work is sent to the Service Area. There was no evidence that the Collision Center sends mechanical work to the Pre-Owned Prep Department for the PDI technicians to repair. When there is a slow period in the Service Area, the mechanical work discovered in the Collision Center would be sent to the Service Area for repair. The record does not reflect any evidence as to the frequency of this mechanical work being performed in the Collision Center. A five-year automotive technician testified to going to the Collision Center on only one occasion to remove a dashboard and do computer diagnostics because the body shop could not do this work. No evidence was adduced at hearing that any Body Shop technicians were initially employed by the Employer as an automotive technician or vice versa. The Employer asserted that 70 percent of all mechanical work is within the skill levels of the

Body Shop technicians. However, the record did not reflect what percentage of the mechanical work was actually performed by employees other than automotive technicians.

Body Shop technicians provide the majority of their work tools such as hand tools, grinders, basic wrenches, cutters, spray guns, and air tools. The Employer does not require that Body Shop technicians provide specific tools but it is assumed that these technicians will provide their own tools. The Employer provides the large specialty tools such as hydraulic equipment and frame machines, which are specific to body work. The Body Shop technicians also use compression testers, depth micrometers, and calipers for measuring sheet metal. On occasion, the Body Shop technicians and automotive technicians have borrowed each other's tools on a temporary basis.

Body Shop technicians are offered training opportunities in body repair and other areas of interest such as air conditioning repair, suspensions, and electrical repairs. Some of the Body Shop technicians have attended Chrysler training programs, technical school programs, and training via computer software. Body Shop technicians are not required to attend off-site Chrysler training which is limited to mechanical training; they may attend ASE (Automotive Service Excellence) training for Body Shop training. Body Shop technicians also may earn training certificates in welding and I Car, a frame-training program.

Body Shop advisors estimate the cost of bodywork based on pre-set hours for specific work as set out in an industry trade book. The flat rate charged customers for collision work is \$46 per hour. All Collision Center employees are paid on a flat rate billing system and are guaranteed 40 hours per week. Generally, Body Shop technicians bill 80 to 90 hours per week. The hourly wage rate for Body Shop technicians is between \$18.85 and \$22.65 per hour. Collision Center employees do not participate in any incentive bonus plan.

Collision Center advisors wear white shirts and dark pants while the other Body Shop employees wear Employer-provided dark blue pants and light blue shirts. Collision Center employees attend meetings only for the Collision Center. The Collision Center is open to the public from 7 a.m. to 6 p.m., Monday through Friday. Body Shop technicians' start times vary from 6:30 a.m. through 9 or 9:30 a.m.

## **V. THE SCOPE OF THE UNIT**

The Employer contends that the petitioned-for craft unit is not appropriate and that the unit should also include all of the PDI technicians and Body Shop technicians, as well as the petitioned-for automotive technicians. The Board has substantial discretion when it selects an appropriate bargaining unit. There is nothing in the statute, which requires that the unit for bargaining be the *only* appropriate unit, or the *ultimate* unit, or the *most* appropriate unit; the Act requires only that the unit be "appropriate." *Bartlett Collins Co.*, 334 NLRB No. 76 (2001). Furthermore, a union is not required to seek representation in the most comprehensive grouping of employees unless "an appropriate unit compatible with that requested does not exist." *P. Ballantine & Sons*, 141 NLRB 1103 (1963); *Bamberger's Paramus*, 151 NLRB 748, 751 (1965); *Purity Food Stores*, 160 NLRB 651 (1966).

The Petitioner contends that the appropriate unit is a craft unit comprised solely of the automotive technicians and excluding all other Service Department employees. A craft unit is defined as:

. . . one consisting of a distinct and homogeneous group of skilled journeyman craftsmen, who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skills and specialized tools and equipment. *Burns & Roe Services Corp.*, 313 NLRB 1307, 1308 (1997).

Also, with respect to a craft unit, the general rule is if there is no history of collective bargaining on a more comprehensive basis, a craft department group having a separate identity of functions, skills, and supervision, exercising craft skills is generally

an appropriate unit. *E.I. Du Pont & Co.*, 162 NLRB 413 (1966). Here, there is no history of collective bargaining. In *Burns & Roe*, supra at 1308, the Board described the test for a craft unit:

In determining whether a petitioned-for group of employees constitutes a separate craft unit, the Board looks at whether the petitioned-for employees participate in formal training or apprenticeship program; whether the work is functionally integrated with the work of the excluded employees; whether the duties of the petitioned-for employees overlap with the duties of the excluded employees; whether the employer assigns work according to need rather than on craft or jurisdictional lines; and whether the petitioned-for employees share common interests with other employees, including wages, benefits and cross-training.

I conclude that the automotive technicians constitute a distinct and homogeneous group of skilled journeymen craftsmen such that they constitute an appropriate craft unit.

The automotive technicians primarily, almost exclusively, perform mechanical automotive repairs and maintenance. The Body Shop employees primarily repair auto bodies rather than mechanical work. If the Body Shop technicians do mechanical work, it is incidental to the body repair work. All other mechanical work is sent to the Service Area. PDI technicians primarily perform new car and used car inspections following a pre-determined checklist, which requires little automotive skill or knowledge. When PDI technicians do perform mechanical work it is only simple repairs while most other mechanical work is assigned to the Service Area. The record is devoid of any evidence that Body Shop technicians or PDI technicians perform other than incidental mechanical work, and it is clear that they do not exercise the full range of craft skills.

To the extent that PDI technicians and Body Shop technicians do perform mechanical work, it is not as helpers for, or apprentices to, journeymen automotive technicians. Any such mechanical work is performed as a part of their duties in their particular department, not as a “helper” for the automotive technicians. Since there is no line of progression from one department to another, and in fact no significant evidence of

permanent interchange among the departments, it cannot be found that there is an apprenticeship involved in mechanical work performed outside of the Service Area.

The disputed departments are also all physically separated from each other with the Pre-Owned Prep Department located in another building. The Collision Center and the Service Area are completely separate from each other with the parts, lube, changing and restrooms, lunchroom, customer lounge, and office areas located in between. The Collision Center and Service Area also each have separate counter access to the Parts Department.

There was no evidence as to the transfer of employees from one department to another except for the one occasion where an automotive technician was transferred to the Pre-Owned Prep Department because he lacked the necessary skill to work as an automotive technician. Applicants for the automotive technician position must have more mechanical experience than that of the typical Body Shop technician to be hired as a journeymen automotive technician. There also was no evidence of day-to-day work related contact between the automotive technicians and the Collision Center employees. There was no evidence of day-to-day contact between Pre-Owned Prep Department employees and Service Area employees. While the entire Service Department shares changing rooms and a lunchroom, the automotive technicians have their own restroom facilities. There was no evidence that the sharing of these facilities was anything more than convenient and not work related.

The automotive technicians are required to attend numerous training courses, at least 2 days every 2 months, so that they may attain the much desired Chrysler ratings of bronze, silver, or gold which ratings establish the dealerships' Chrysler star rating. This training includes training at Chrysler's Training Center in Earth City, Missouri, which only covers mechanical training. The Collision Center and Pre-Owned Prep Departments have no such training requirements for their employees. Body Shop

technicians or PDI technicians are not required to achieve Chrysler ratings although training is provided if they desire to attend.

The automotive technicians are required to provide several thousand dollars of personal tools to perform their work which tools are maintained in their separate work areas. While Body Shop technicians are also required to provide their own tools, the tools required are substantially different from those required by the automotive technicians. No evidence was presented that the PDI technicians provide any of their own tools.

Automotive technicians are the only employees able to earn additional wages under the "Technician Sales Plan" which provides for additional hourly rates for billable hours over 40. Moreover, Service Area work is charged at a flat rate of \$98.50 per hour while the Collision Center flat rate is \$46 per hour. Body Shop technicians typically bill 80 to 90 hours per week while automotive technicians only bill between 30 and 50 hours per week on average. Automotive technicians hourly wage rate, before the incentive bonuses, is \$1 an hour more than the Body Shop technicians and \$5 to \$7 an hour more than the PDI technicians.

The automotive technicians have separate supervision from the Collision Center and Pre-Owned Prep Department.

Accordingly, for the reasons stated above, I find that the petitioned-for unit of automotive technicians, excluding all other Service Department employees, is an appropriate craft unit. *Dodge City of Wauwatosa*, 282 NLRB 459 (1986); *Fletcher Jones Chevrolet*, 300 NLRB 875 (1990).

## **VI. CONCLUSIONS AND FINDINGS**

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

3. The Petitioner claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time service department journeymen and apprentice automotive technicians employed by the Employer at its Ellisville, Missouri facility, EXCLUDING office clerical and professional employees, guards, supervisor as defined in the Act, Lube Advisors, Lube Foreman, Lube Technicians, Service Advisors, Body Shop Advisor, Body Shop Apprentice Painter, Body Shop Painter, Body Shop Technicians, Painters' Helper, Used Car Technicians, PDI employees, Parts Department employees, and Porters.

## **VII. DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Association of Machinists and Aerospace Workers, AFL-CIO. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

### **A. Voting Eligibility**

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. [Employees engaged in any economic strike, who have retained their status as](#)

strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike, which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

#### **B. Employer to Submit List of Eligible Voters**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.



To be timely filed, the list must be received in the Regional Office, 1222 Spruce Street, Room 8.302, St. Louis, MO 63101-2829, on or before **March 3, 2003**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (314) 539-7794. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

### **C. Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

## **VIII. RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-

0001. This request must be received by the Board in Washington by 5 p.m., EST on **March 10, 2003**. The request may **not** be filed by facsimile.

Dated: February 24, 2003  
at Saint Louis, Missouri

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Ralph R. Tremain, Regional Director, Region 14

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